



Office of
Bill de Blasio
PUBLIC ADVOCATE FOR THE CITY OF NEW YORK



BUILDING A FRONTLINE DEFENSE TO STOP SECRET POLITICAL SPENDING

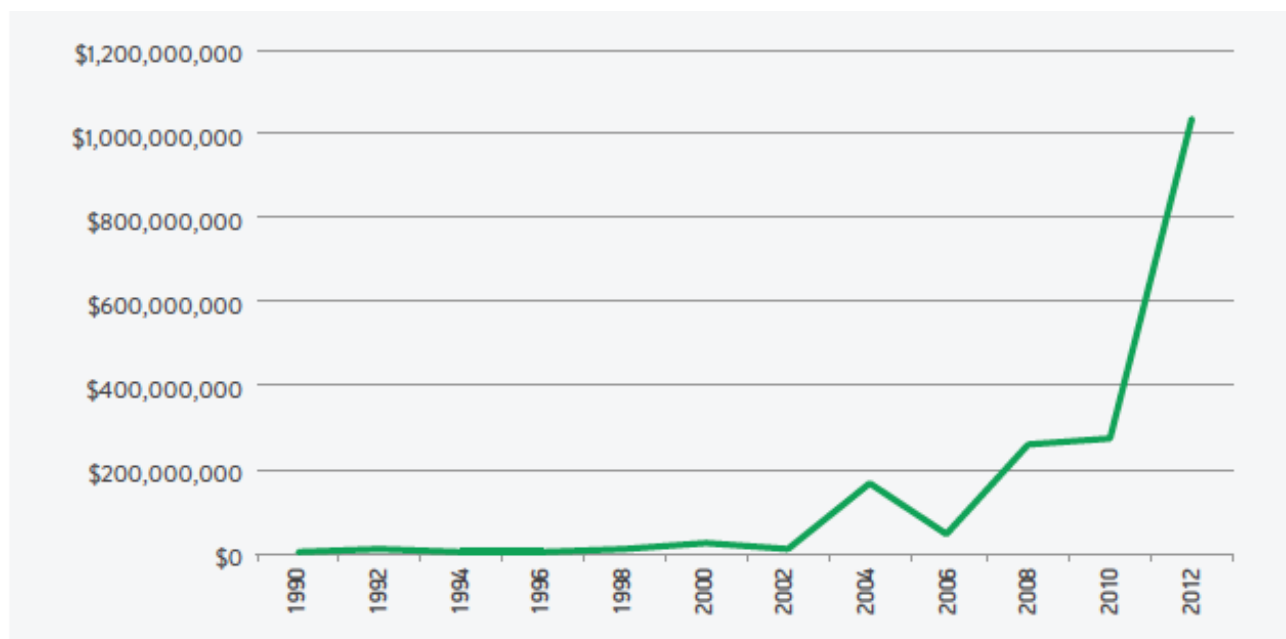
*A State-by-State Analysis of New Opportunities
to Rein in Unfettered Nonprofit Election Spending*

INTRODUCTION

From coast to coast, Americans of all political backgrounds are united in their opposition to the increasing role and influence of money in elections. According to a 2012 survey commissioned by the Corporate Reform Coalition, more than 80% of every ideological and partisan subgroup expressed agreement that there is too much corporate money in politics.¹

Meanwhile, since the landmark Supreme Court decision in *Citizens United v. Federal Election Commission* in January 2010, Americans have witnessed a 240% increase in outside spending in federal elections (figure 1).²

Figure 1: Rise in Outside Spending in Federal Elections



Source: Center for Responsive Politics, http://www.opensecrets.org/outsidespending/cycle_tots.php; U.S. PIRG, Demos analysis of Sunlight Foundation Data

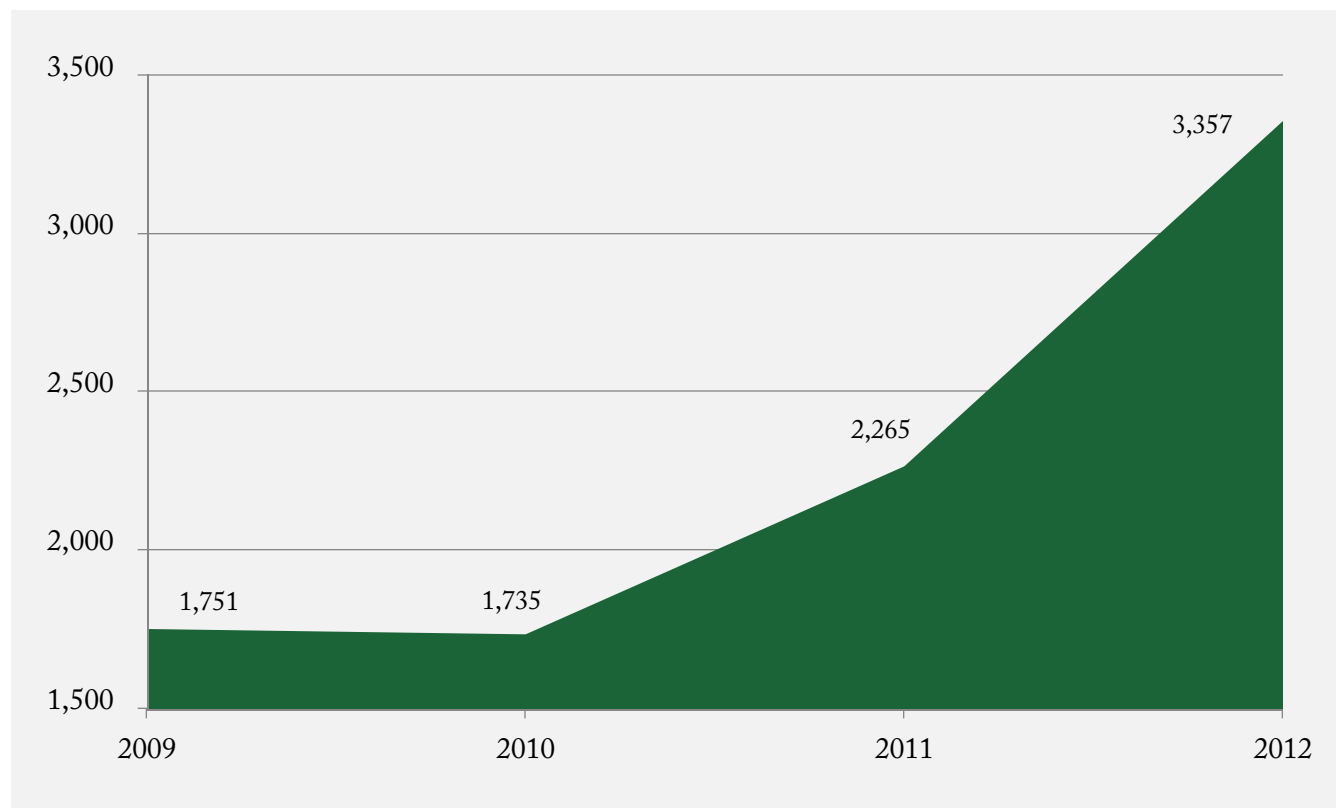
¹ Brad Bannon, "Support for Reform of Corporate Political Spending Practices," Bannon Communications Research, October 18, 2012. Available online at <http://www.citizen.org/documents/bannon-communications-research-executive-summary.pdf>

² Adam Lioz and Blair Bowie, "Billion Dollar Democracy: The Unprecedented Role of Money in the 2012 Elections," Demos and U.S. P.I.R.G., January 17, 2013. Available online at <http://www.demos.org/publication/billion-dollar-democracy-unprecedented-role-money-2012-elections>

While direct corporate contributions to political action committees are disclosed, these publicly-visible contributions have been few-and-far-between. For many corporations and wealthy individuals, social welfare organizations – commonly referred to as 501(c)(4) organizations based on the corresponding section of the Internal Revenue Code (IRC) – have emerged as the preferred vehicle for conducting political activity as these organizations are not traditionally required to disclose the names of their donors.

Between 2010 and 2012, the Internal Revenue Service (IRS) witnessed a near doubling of the number of applications from new organizations seeking 501(c)(4) status³ (figure 2) – with many of these organizations sharing offices with SuperPACs and other political action committees.

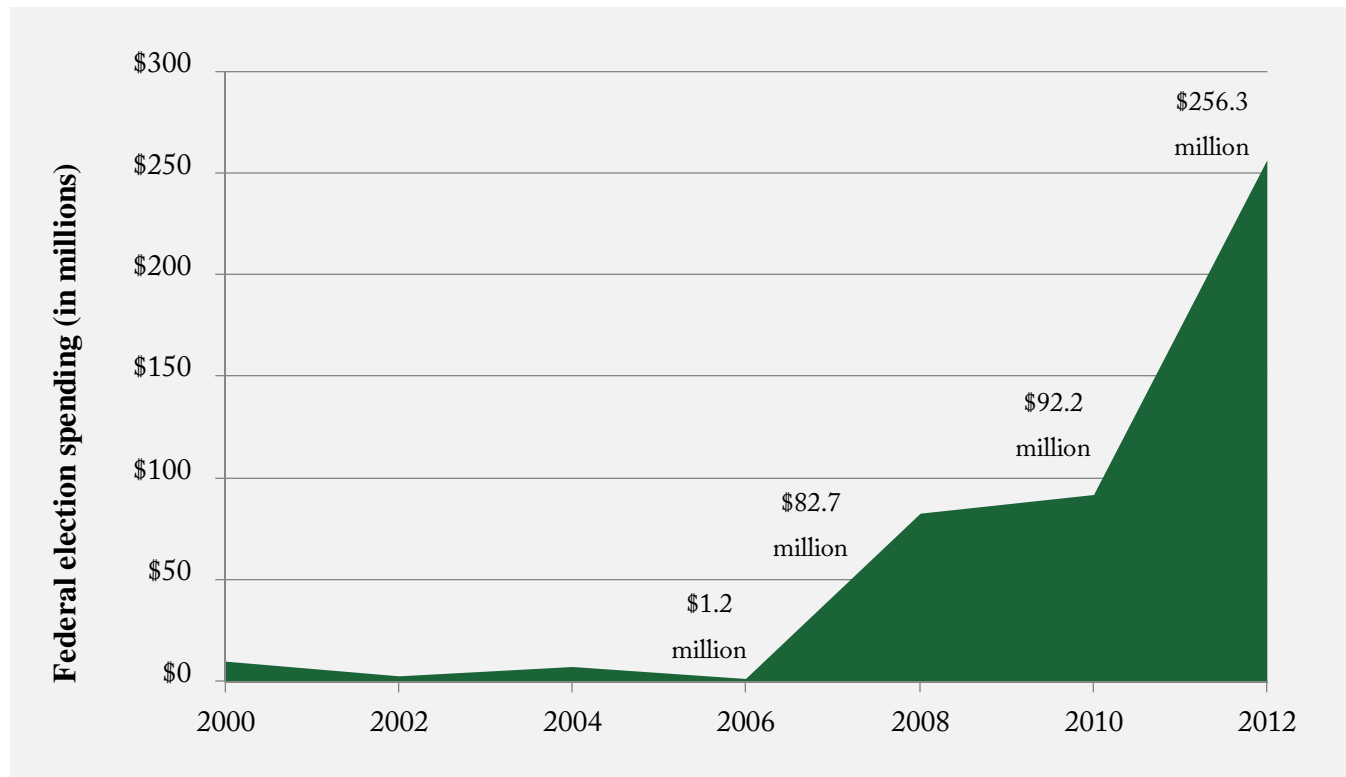
Figure 2: Rise in IRS Applications for Nonprofit 501(c)(4) Status



³ Treasury Inspector General for Tax Administration, “Inappropriate Criteria Were Used to Identify Tax-Exempt Applications for Review,” May 14, 2013, Reference Number: 2013-10-053. Available online at <http://apps.washingtonpost.com/g/page/politics/inspector-general-report-on-irs-targeting-conservative-groups/153/>

Paralleling this rise in IRS applications by political organizations, disclosed federal election spending by 501(c)4 organizations has also skyrocketed in recent years – increasing by 9,890% over the last decade, according to Federal Election Commission reports (figure 3).⁴

Figure 3: Increase in Reported Federal Election Spending by 501(c)4 Organizations



Despite the growing significance of these nonprofit organizations in our elections, very little is currently known about the newest generation of politically-active social welfare organizations. Most notably, whereas the amount of money that these organizations spend on federal elections is publicly-available, the corporate and individual donors to these organizations are not reported. This disconcerting trend and lack of transparency threatens to confuse both potential donors to these organizations and also voters who have been increasingly inundated with competing information advocating for the election and defeat of candidates.

This report looks at new opportunities to shine a light on the political spending activities and donors behind politically-active nonprofit organizations through state-level regulatory actions.

⁴ Federal Election Commission data as reported by the Center for Responsive Politics. Available online at http://www.opensecrets.org/outsidespending/nonprof_summ.php?cycle=All&type=type

Key findings from our analysis:

- **More than half of all states have laws that should allow for increased disclosure by 501(c)(4) organization based on pre-existing laws and reporting systems for nonprofits.** In many of these states, the State Attorney General or Secretary of State could enact reforms without outside approval.
- **Most “battleground states” could quickly enact changes to mandate disclosure of political spending and donors by nonprofit organizations.** This includes Colorado, Florida, Iowa, Michigan, Missouri, New Hampshire, New Mexico, North Carolina, and Ohio.
- **Enhanced disclosure rules in a small number of states could expose the secret donors behind the nation’s largest nonprofit spending groups.** This includes Crossroads GPS, Americans for Prosperity, and the American Future Fund, which together accounted for more than half of all spending by 501(c)4 organizations in 2012.

BACKGROUND

Requiring disclosure of money spent to influence elections is on solid constitutional ground. In fact, when the Supreme Court set off this explosion in outside spending with its ruling in *Citizens United v. F.E.C.*, it assumed all new spending authorized by the court decision would be disclosed. In the Court's ruling, Justice Anthony Kennedy outlined the critical role of transparency to a functioning democracy:

With the advent of the internet, prompt disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters. . . . The First Amendment protects political speech; and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way.

This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages.

Unfortunately, current disclosure rules and regulations have failed to provide this level of essential transparency, in part due to the rise of political spending using nonprofit intermediaries.

The Evolution of 501(c)4 Organizations

Unlike SuperPACs which emerged as a direct result of the 2010 Supreme Court decisions in *Citizens United v. F.E.C.* and *SpeechNow.com v. F.E.C.*, social welfare organizations have been fixtures in American life since the early 20th century. The Internal Revenue Code defines this classification of organization as one that is “operated exclusively for the promotion of social welfare.”⁵ Originally created with civic leagues and other community-centered organizations that “promote the common good and general welfare of the people of the community” in mind,⁶ 501(c)(4) has evolved into a catch-all classification for presumptively beneficial non-profit organizations that resist classification under the other exempting provisions of the IRC, such as 501(c)(3). Also, unlike religious, educational or traditional public charities, which are classified under section 501(c)(3) of the IRC and are strictly prohibited from engaging in political activity, there are fewer restrictions in the tax law on 501(c)(4)

⁵ Internal Revenue Code, Part 4, Chapter 76, Section 13.4, “Operational Requirements” Available online at http://www.irs.gov/irm/part4/irm_04-076-013.html

⁶ *Ibid.*

organizations. Provided that supporting or opposing candidates is not their primary activity, 501(c)(4) organizations can participate in political or electoral activities under federal tax law.⁷

During the social movements of the 1960's, 501(c)(4) classification became appealing to charitable organizations who wished to lobby congress, inspiring a wave of organizations to change their IRS registration from other charitable classifications, such as 501(c)(3), to 501(c)(4).⁸ As tactics evolved, groups began pushing the boundaries of how much political activity could be done while retaining 501(c)(4) status; the IRC left for broad interpretation of how much political involvement could be done while still keeping the "primary" purpose of the organization the promotion of social welfare. While social welfare organizations are permitted to engage in an unlimited amount of lobbying on issues related to their primary purpose, there are limits on other political activities, such as campaigning for or against specific candidates. For example, 501(c)(4) organizations may engage in political campaigns on behalf of or in opposition to candidates for public office provided that this electoral engagement does not constitute the organization's primary activity.⁹

As a result of the U.S. Supreme Court's *Citizens United vs. Federal Election Commission* decision in 2010, corporations and 501(c)(4) organizations are permitted to make unlimited independent expenditures to support or oppose candidates for political office. An independent expenditure is generally defined as any communication that is not coordinated with, or made with the cooperation, consultation, or at the request of a candidate or political party. These changes have contributed to the evolution of 501(c)(4) organizations as a very attractive vehicle for influencing elections because the donors can contribute unlimited amounts and remain anonymous. Neither the social welfare organizations nor the donors have to be connected to the communities they will be influencing.

Ambiguity & Loopholes in the Law

Whereas the classification of social welfare organizations under the IRC was intended to foster civic

⁷ *Ibid.*

⁸ "What You (Really) Need to Know About 501(c)(4)s" Moyer's and Company, August 31, 2012. Available online at <http://billmoyers.com/content/what-you-really-need-to-know-about-501c4s/>

⁹ Reilly and Braig-Allen, "Political Campaign and Lobbying Activities of IRC 501(c)(4), (c)(5), and (c)(6) Organizations," Exempt Organizations-Technical Instructions Program for FY2003. Available online at <http://www.irs.gov/pub/irs-tege/eotopicl03.pdf>

groups that support democratic dialogue and encourage civic participation, a number of recently-formed 501(c)(4) organizations more closely resemble political action committees. Due to the broad language in the law and current regulatory practices, many details surrounding how these organizations are allowed to engage in electoral politics is subject to interpretation. The IRS has not provided definitive guidance as to how much political activity is allowed and enforcement in this area is



difficult; none of the regulatory agencies with jurisdiction over these organizations have put formal, inclusive regulations in place. This ambiguity makes 501(c)(4) status enticing for those seeking to exploit loopholes in the system.

In the aftermath of the 2010 midterm election – the first major election following the Supreme Court’s *Citizens United* decision – the group ProPublica¹⁰ conducted an in depth investigation into the role of 501(c)(4) organizations in these elections and found that the IRS had failed to clarify how much time and resources 501(c)(4) organizations can legally devote to political activities — or defined what it means to be “primarily” engaged in promoting what the agency terms the “common good and general welfare of the people of the community.”¹¹ According to ProPublica, some 501(c)(4) groups have interpreted the rules to mean they can spend up to 49 percent of their money on political ads; the IRS has never set a hard limit. The agency has struggled to revoke or deny tax exemptions to groups because of political activity, sometimes having its decisions reversed by courts.¹³

Another factor inhibiting the IRS from regulating social welfare organizations is the current deadlines for submitting required information for organizations registered as 501(c)(4). The IRS requires those registered as a social welfare organization to disclose information regarding their political campaign

¹⁰ ProPublica is an independent, non-profit news organization that produces investigative journalism in the public interest. Online at www.Propublica.org

¹¹ Kim Barker, “How Nonprofits Spend Millions on Elections and Call It Public Welfare,” Propublica, August 18, 2012. Available online at <http://www.propublica.org/article/how-nonprofits-spend-millions-on-elections-and-call-it-public-welfare>

activities on Form 990, *Return of Organization Exempt from Income Tax*.¹² The Form 990 must be filed by the 15th day of the 5th month after the organization's accounting period ends, for example May 15th for a calendar-year filer.¹³ The filing deadline can pose a problem for disclosure because the organization may have invested in an election then dissolved shortly after the election without filing its Form 990 and the IRS would have no record of the organization's spending.

An additional problem with current IRS regulations is that the information regarding political activities may not be fully disclosed on the Form 990 due to the ambiguity of the language surrounding acceptable spending. Activities that some might describe as political can be described as "educational" or "issue advocacy" by manipulating the classifications of activities allowed by social welfare organizations.

With regard to the IRS and regulating social welfare organizations, ProPublica found¹⁴ that:

- Some organizations said they would not engage in politics when they applied for IRS recognition of their tax-exempt status, but later filings showed they spent millions on just such activities.
- Social welfare groups used a range of tactics to underreport their political activities to the IRS, a critical measure in determining whether they are entitled to remain tax-exempt.
- Many groups told the IRS they spent far less on politics than they reported to federal election officials. Some classified expenditures that clearly praised or criticized candidates for office as "lobbying," "education" or "issue advocacy" on their tax returns.
- The IRS cannot match the speed of politics. By the time some groups submitted tax returns spelling out the millions they poured into the 2010 election, they had stopped operating, or disbanded and reformed under new names.

The IRS has been looking into refining and clarifying the regulations surrounding social welfare organizations registered under section 501(c)(4) of the IRC. Most recently, in July 2011, the Campaign

¹² Reilly and Braig-Allen, "Political Campaign and Lobbying Activities of IRC 501(c)(4), (c)(5), and (c)(6) Organizations," Exempt Organizations-Technical Instructions Program for FY2003. Available online at <http://www.irs.gov/pub/irs-tege/eotopic103.pdf>

¹³ "Overview of Form 990," Internal Revenue Service. Available online at <http://www.irs.gov/instructions/i990/ch01.html>

¹⁴ Kim Barker, "How Nonprofits Spend Millions on Elections and Call It Public Welfare," ProPublica, August 18, 2012. Available online at <http://www.propublica.org/article/how-nonprofits-spend-millions-on-elections-and-call-it-public-welfare>

Legal Center along with the group Democracy 21 filed a rulemaking petition with the IRS related to campaign activities by section 501(c)(4) organizations. In this Petition, the proponents called on the IRS to:

Revise its existing regulations relating to the determination of whether an organization that intervenes or participates in elections is entitled to obtain or maintain an exemption from taxation under 26 U.S.C. § 501(c)(4). The existing IRS regulations do not conform with the statutory language of section 501(c)(4) of the Internal Revenue Code (IRC) nor with the judicial decisions that have interpreted this IRC provision and are, accordingly, contrary to law.¹⁵

The IRS responded a year later saying:

The IRS is aware of the current public interest in this issue. These regulations have been in place since 1959. We will consider proposed changes in this area as we work with the IRS Office of Chief Counsel and the Treasury Department's Office of Tax Policy to identify tax issues that should be addressed through regulations and other published guidance.¹⁶

The IRS has not completed any other action with regard to the rulemaking petition filed by the Campaign Legal Center and Democracy 21 and the regulations about political spending by social welfare organizations remains unclear. The IRS appears unlikely to make reforms in a timely manner as the agency is both underfunded and unequipped to handle large-scale regulation in this area.¹⁷

The Case for Increased State-level Regulation of Nonprofit Political Activities

The rise in secret political spending is not only a federal issue. In June 2012 – while national attention focused on the presidential election – the Supreme Court expanded on its *Citizens United* ruling by

¹⁵ "Petition for Rulemaking On Campaign Activities by Section 501(c)(4) Organizations," Campaign Legal Center, July 27, 2011. Available online at http://www.campaignlegalcenter.org/attachments/IRS_PETITION.FINAL.7-27-2011.pdf

¹⁶ Rick Hasen, "IRS Responds to Rulemaking Petition Submitted by Democracy 21 and Campaign Legal Center, Says Agency Will Consider Changing Rules for 501(c)(4) Eligibility," Election Law Blog, July 23, 2012. Available online at <http://electionlawblog.org/?p=37338>.

¹⁷ Fred Wertheimer, "Inadequate IRS rules helped create scandal," Politico Op-ed, May 16, 2013. Available online at <http://www.politico.com/story/2013/05/inadequate-irs-rules-helped-create-scandal-91490.html#ixzz2ajjCgOIf>

striking down a ban on independent expenditures in state and local elections in the case of *American Tradition Partnership v. Bullock*.¹⁸ As a result of this decision, state and local races – including elections for judges, sheriffs and district attorneys – could become targets for massive independent expenditures, creating new openings for corruption.

In March 2013, New York City Public Advocate Bill de Blasio and the Coalition for Accountability in Political Spending (CAPS) released a report entitled “From Social Welfare to Political Warfare” looking at the dramatic influx of outside spending in New York elections. The report found that political spending by tax-exempt 501(c)(4) organizations increased by more than 1,500% between the 2008 and 2012 elections, with 98.7% of those funds coming from out-of-state groups.¹⁹

Contrary to Supreme Court Justice Anthony Kennedy’s expectations, which he penned in the court’s decision on *Citizens United*, voluntary disclosure of political spending has not become the law of the land. Rather, only 20 percent of S&P 500 companies report on how they spent shareowners’ money.²⁰ In the face of this growing tide of dark money, states like New York were faced with a choice – sit idly as outside spending from secret donors continues to flood the electoral process *or* take action to bring light to this spending. In an op-ed entitled “Shining a light on dark money,” New York State Attorney Eric Schneiderman responded to this challenge and outlined a new path for states, rooted in the nonprofit regulatory structures:

As the state’s top lawyer, I am empowered to protect nonprofit donors from fraudulent solicitations and charitable assets from misuse. When a donor is asked to contribute to a group whose innocuous-sounding name makes it appear to be doing work in the public interest, that donor should have a clear picture of where his or her money is going. That’s why my office has issued new regulations ...²¹

¹⁸ *American Tradition Partnership v. Bullock*, 132 S. Ct. 2490 - Supreme Court 2012. Available online at http://scholar.google.com/scholar_case?case=12470874176176836408

¹⁹ “From Social Welfare to Political Warfare,” Coalition for Accountability in Political Spending and the Office of the Public Advocate for the City of New York, March 2013. Available online at http://www.politicalspending.org/501c4_report

²⁰ Heidi Welsh and Robin Young, “Corporate Governance of Political Expenditures: 2011 Benchmark Report on S&P 500 Companies,” Sustainable Investments Institute and IRRC Institute, November 2011. Available online at http://www.irrcinstitute.org/pdf/Political_Spending_Report_Nov_10_2011.pdf

²¹ Eric Schneiderman, “Shining a Light on Dark Money,” New York Daily News Op-ed, December 26, 2012. Available online at <http://www.nydailynews.com/opinion/shining-light-dark-money-article-1.1225491#ixzz2b79kRmVk>

State-level Models for Increased Regulation of Nonprofit Political Activities

In June 2013, New York State Attorney General Eric Schneiderman enacted new regulations to require nonprofits that are registered with the State of New York to report the percentage of their expenditures that go to federal, state and local electioneering. Under the new rules, organizations that spend at least \$10,000 to influence state and local elections in New York must also file itemized schedules of expenses and contributions – this includes the names of any donor that contributes \$100 or more for non-tax exempt purposes. All such disclosures are made available to the public.²²

The new regulations apply to all registered organizations exempt from taxation under section 501(c) of the Internal Revenue Code, except for 501(c)(3) organizations, which are already strictly prohibited from intervention in political campaigns. To protect donor privacy and the right of free association, the regulations contain two key exceptions to the disclosure requirements. First, the regulations do not require the documentation to include information about donors whose donations are restricted so that their funds cannot be used for political purposes. Second, the regulations create a waiver application procedure. If public disclosure of a contribution or a donor's identity could cause undue harm, threats, harassment or reprisals, the organization or the donor can apply to the Attorney General's office for a waiver from disclosure of information concerning that donor.²³

Attorney General Schneiderman's reforms are groundbreaking not only in their potential to shine a light on millions of dollars in secret election spending but also because of the speed and relative ease by which they were enacted. Unlike similar efforts in other states and municipalities, no new legislation was needed to enact these rules. Under New York state law, the Attorney General operates New York's Charities Bureau which requires nonprofits that raise money in the state register and submit annual reports. Within this context, the Attorney General was able to increase disclosure requirements for nonprofit organizations simply by amending the annual filing paperwork that is issued by the State Charities Bureau. The primary legal basis for the new rules on political spending is that increase transparency about nonprofit activities helps prospective donors make informed decisions before contributing, thus preventing deception or fraud.

²² "A.G. Schneiderman Announces New Disclosure Requirements For Nonprofits That Engage In Electioneering," New York State Office of the Attorney General, December 12, 2012. Available online at <http://www.ag.ny.gov/press-release/ag-schneiderman-announces-new-disclosure-requirements-nonprofits-engage-electioneering>

²³ The full text of the regulations put in place by the New York State Attorney General and other related information are available at: <http://www.ag.ny.gov/charity-disclosure-regulations>

Outside of New York, three other states – Utah, Maryland and Connecticut – have also enacted new reforms for increased regulation of nonprofit political activities. In all three states, these reforms required varying levels of compromise to secure passage through the state legislature. In Utah, Governor Gary Herbert signed H.B. 43 into law in April 2013, requiring all non-profit organizations to disclose donor information to the state when they make political expenditures valued at \$750 or more. Under the new law, nonprofits in Utah must also notify their donors when contributions may be used to make political expenditures.²⁴ In Maryland, Governor Martin O'Malley signed the Campaign Finance Reform Act of 2013 into law in May 2013, which subjects non-profit organizations to state campaign finance registration and reporting requirements if they directly or indirectly engage in election-related spending in Maryland.²⁵ Similarly, Public Act 13-180 in Connecticut, which was signed into law by Governor Dannel Malloy in June 2013, increased disclosure requirements for independent expenditure groups including 501(c)4 organizations, including disclosure of donors in some but not all cases.²⁶ In Maryland and Connecticut, the new laws received criticism from good government groups for pairing increased disclosure with higher candidate contribution limits – a condition which legislators insisted was a necessary compromise to secure passage.

²⁴ House Bill 43, Utah State Legislature. Available online at <http://www.le.state.ut.us/~2006/bills/hbillamd/hb0043.htm>

²⁵ Campaign Finance Reform Act of 2013, Maryland General Assembly. Available online at <http://mgaleg.maryland.gov/webmga/frmMain.aspx?id=HB1499&stab=01&pid=billpage&tab=subject3&cys=2013RS>

²⁶ Public Act 13-180 – An Act Concerning Disclosure of Independent Expenditures and Changes to Other Campaign Finance Laws and Election Laws. State of Connecticut. Available online at <http://www.cga.ct.gov/2013/ACT/PA/2013PA-00180-R00HB-06580-PA.htm>

STATE BY STATE ANALYSIS OF NONPROFIT REGULATORY FRAMEWORK

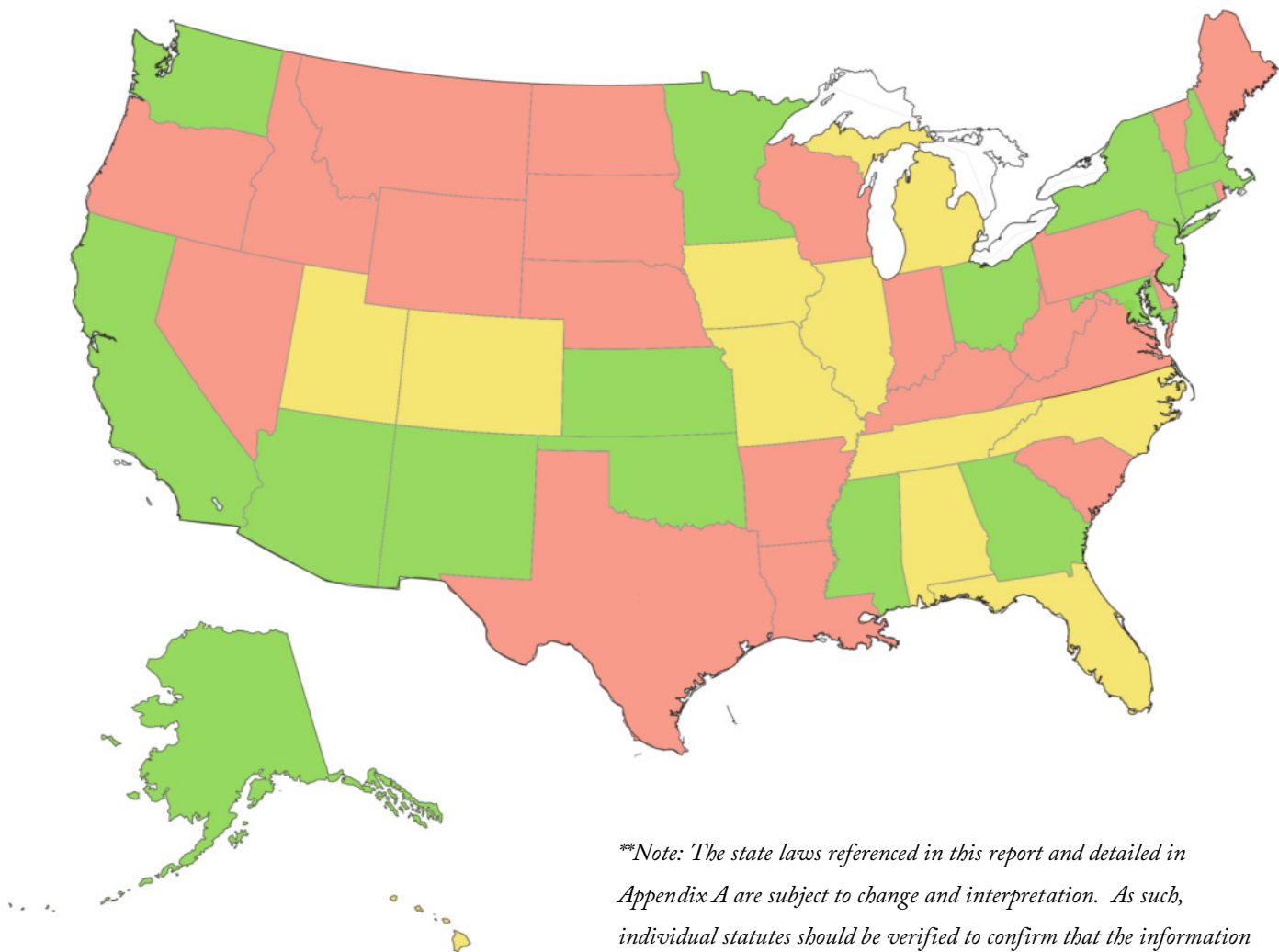
While the Supreme Court's *Citizens United* decision prompted extensive analysis and discussion of campaign finance laws around the country, there has been limited state-by-state analysis of the nonprofit regulatory framework – despite radical changes in the nature and extent of nonprofit political activity. As demonstrated by New York State Attorney General Schneiderman, preexisting regulatory and reporting structures, such as state charities bureaus, can provide a powerful mechanism for enacting reforms to bring transparency to the nonprofit sector. To assess opportunities for similar reforms in states across the country, we reviewed consumer protection and charitable organization statutes of all 50 states.

The results of this research are included in the sections below and have been attached as an appendix to this report. For each state, we have listed the government entity that is responsible for regulating the activities of charities and have cited the relevant state statutes with a focus on laws pertaining to the registration of charities with the state and reporting requirements. Based on these laws, each state was broken into one of three color-coded categories:

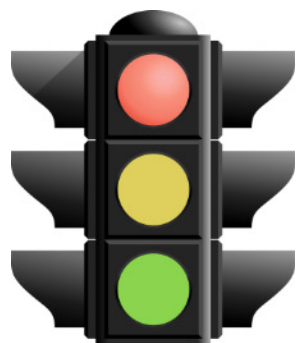
- 1) **“Red” states:** States where legislative changes are likely needed to open the door for increased regulation of nonprofit organizations because charities do not have register with the state regulator, or the existing statutes covering nonprofit organizations are limited in the scope.
- 2) **“Yellow” states:** States where the Attorney General or other charities regulator has some authority under current state statutes to request additional information about the political activities of nonprofit organizations registered with the state. In these states, charities are required to register with the state; and the existing statutes contains language that could be interpreted or modified to allow for the authority to request additional information from charities registered with the state.
- 3) **“Green” states:** States where the Attorney General or other charities regulator has broad authority under current state statutes to request additional information about political activities of nonprofit organizations registered with the state. In these states, charities are required to register with the state; and the existing statute contains language which could be interpreted to allow for the authority to request any additional information from charities registered with the state.

KEY FINDINGS

The following map illustrates the breakdown of states based on opportunities for increased disclosure and regulation of nonprofit organizations within pre-existing state laws and regulatory frameworks.



***Note: The state laws referenced in this report and detailed in Appendix A are subject to change and interpretation. As such, individual statutes should be verified to confirm that the information contained in this report remains up-to-date and accurate.*



- Red:** Legislation is most likely needed to strengthen state rules on nonprofit disclosure.
- Yellow:** Charities regulator has some authority to strengthen state rules on nonprofit disclosure.
- Green:** Charities regulator has broad authority to strengthen state rules on nonprofit disclosure.

- More than half of all states (28 of 50) have laws that should allow for increased disclosure by 501(c)(4) organization based on pre-existing laws and reporting systems for nonprofits. In many of these states, the State Attorney General or Secretary of State could enact reforms by amending the current forms that nonprofits submit as part of their annual filings. For a full list of relevant statutes and regulatory authorities, see Appendix A.

States with a pre-existing nonprofit reporting framework and built-in flexibility to request additional information from nonprofits.	States that lack a pre-existing nonprofit reporting framework <i>–or–</i> do not have built-in flexibility to request additional information from nonprofits.
Alaska	Arkansas
Arizona	Delaware
California	Idaho
Connecticut	Indiana
Georgia	Kentucky
Kansas	Louisiana
Maryland	Maine
Massachusetts	Montana
Minnesota	Nebraska
Mississippi	Nevada
New Hampshire	North Dakota
New Jersey	Oregon
New Mexico	Pennsylvania
New York*	Rhode Island
Ohio	South Carolina
Oklahoma	South Dakota
Utah	Texas
Washington	Vermont
Alabama	Virginia
Colorado	West Virginia
Florida	Wisconsin
Hawaii	Wyoming
Illinois	
Iowa	
Michigan	
Missouri	
North Carolina	
Tennessee	

*** Comprehensive reforms enacted in 2013*

- Most “battleground states” could quickly enact changes to mandate disclosure of political spending and donors by nonprofit organizations. This includes Colorado, Florida, Iowa, Michigan, Missouri, New Hampshire, New Mexico, North Carolina, and Ohio.

States with a pre-existing nonprofit reporting framework and built-in flexibility to request additional information from nonprofits.	States that lack a pre-existing nonprofit reporting framework <i>–or–</i> do not have built-in flexibility to request additional information from nonprofits.
New Hampshire	Nevada
New Mexico	Pennsylvania
Ohio	Virginia
Colorado	Wisconsin
Florida	
Iowa	
Michigan	
Missouri	
North Carolina	

- Enhanced disclosure rules in a small number of states could expose the secret donors behind the nation’s largest nonprofit spending groups.

An analysis of 2012 election spending patterns suggests that the potential impact of state-level disclosure rules could be significant if a few strategic states modify their charity reporting requirements to mandate that politically-active nonprofit organizations in these states disclose their donors. Congressional elections in the nine battleground states on the right (which were found to have a pre-existing nonprofit reporting framework and built-in flexibility to request additional information from nonprofits), for example, accounted for more than \$55 million in independent expenditures

State	Spending in 2012 Congressional Races
Ohio	\$17,945,579
Wisconsin	\$14,399,590
Florida	\$7,645,761
New Mexico	\$4,247,282
Michigan	\$3,330,489
New Hampshire	\$2,693,648
Colorado	\$2,144,111
Missouri	\$1,782,938
North Carolina	\$1,310,349

by nonprofit organizations.²⁷ Of this spending, eighty percent of this spending was concentrated within the ten organizations below, which represent some of the most prolific and secret nonprofit spending groups.

Organization	2012 Election Spending in Congressional Races in Nine Battleground States
US Chamber of Commerce	\$13,816,784
Crossroads GPS	\$12,236,774
Americans for Tax Reform	\$6,469,649
American Action Network	\$3,524,125
League of Conservation Voters	\$2,214,404
NRA Institute for Legislative Action	\$1,889,392
Americans for Prosperity	\$1,473,349
NFIB The Voice of Free Enterprise	\$1,370,897
YG Network	\$1,110,625

While it remains to be seen whether or not changes in state charity disclosure rules will apply to trade associations like the Chamber of Commerce, social welfare organizations that hold charitable assets in these states or raise money for charitable purposes from state residents would be required to disclose all their donors under these new rules.

With the bulk of political spending concentrated in a small number of nonprofit 501(c)4 organizations, new disclosure rules in a small number of states could quickly shine the light on millions of dollars in secret corporate political spending. As shown in the table below, three organizations – Crossroads GPS, Americans for Prosperity, and the American Future Fund – alone reported more than \$130 million dollars in 2012 election spending to the Federal Election Commission: more than half of all spending by 501(c)4 nonprofit organizations.²⁸

²⁷ Federal Election Commission data as reported by the Center for Responsive Politics. Available online at <http://www.opensecrets.org/outsidespending/summ.php?cycle=2012&disp=R&pty=N&type=A>

²⁸ Federal Election Commission data as reported by the Center for Responsive Politics. “Political Nonprofits: Top Election Spenders”: available online at http://www.opensecrets.org/outsidespending/nonprof_elec.php

Name	2012 General Election Spending
Crossroads GPS	\$71,181,940
Americans for Prosperity	\$36,352,928
American Future Fund	\$25,414,586
Americans for Tax Reform	\$15,794,552
American Action Network	\$11,689,399
League of Conservation Voters	\$11,137,177
Americans for Responsible Leadership	\$9,793,014
NRA Institute for Legislative Action	\$7,448,189
Patriot Majority USA	\$7,013,886
Planned Parenthood Action Fund	\$6,545,371

CONCLUSION

In the three and a half years since the Supreme Court’s *Citizens United* decision, Americans have experienced a dramatic influx of money into our elections – and tangentially into the nonprofit sector – as social welfare organizations became as a preferred vehicle for masking the identities of political donors. This new post-*Citizens United* reality carries new threats to our democracy and also the integrity of our charitable sector.

Fortunately, as this report demonstrates, much of the country has a built-in defense in the form of charity bureaus and regulatory frameworks. While Congress and state legislatures across the country struggle to pass meaningful laws of disclosure, Attorney Generals and Secretaries of State have the power to act now to bring much-needed transparency to our nonprofit sectors through new rules on disclosure. Thanks to the work of New York State Attorney General Eric Schneiderman, we now have a model for reform (Appendix B). Now all it takes is the courage to act.

APPENDIX A: STATE BY STATE ANALYSIS:

PART ONE: Charities regulator has broad authority to strengthen state rules on nonprofit disclosure.

State	Main Charities Regulator	Relevant Statute/Comments
Alaska	Attorney General, Dept. of Law	<p>Alaska Statutes Section 45.68.900: Definitions. In this chapter, (1) "charitable organization" means a nonprofit organization that (A) is operated for the relief of poverty, distress, or other condition of public concern in the state; <u>or</u> (B) the Internal Revenue Service determines to be a tax exempt organization under 26 U.S.C. 501(c)(3) (Internal Revenue Code);</p> <p>Charitable Solicitations Act Sec. 45.68.010: registration. a. A charitable organization may not solicit contributions of money or other property unless the charitable organization is registered with the Department of Law. c. To register under this section, a charitable organization or paid solicitor shall file with the department <u>1. a registration statement on a form or in a format provided and established by the department by regulation;</u> d. Registration under this section expires on September 1 of each year. To renew a registration, a charitable organization or paid solicitor shall file with the department a registration renewal statement established by the department by regulation and, in the case of a paid solicitor, evidence that a bond that satisfies (c)(2) of this section will be in effect for the renewal period.</p> <p>Alaska Statutes 45.68.060: Public Records. The registration statement, registration renewal statement, financial reports of paid solicitors, contracts, and other documents required to be filed with the department under this chapter are public records available for inspection and copying under AS 40.25.110 - 40.25.220.</p> <p>Alaska Statutes 45.68.130: Regulations. The department shall adopt regulations under AS 44.62 (Administrative Procedure Act) to implement this chapter.</p>
Arizona	Secretary of State	<p>Arizona Revised Statutes 44-6551: Definitions. In this article, unless the context otherwise requires:</p>

		<p>1. "Charitable organization" means either of the following:</p> <p>(a) A person determined by the internal revenue service to be a tax exempt organization pursuant to section 501(c)(3) of the internal revenue code.</p> <p>(b) A person who is or who is held out to be established for a benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental conservation, civic or other eleemosynary purpose or a person who in any manner employs a charitable appeal as the basis of a solicitation.</p> <p>Arizona Revised Statutes 44-6552: Charitable organizations; registration; late registration penalty</p> <p>A. Except as provided in subsection F of this section and section 44-6553, before soliciting its first contribution, whether through a contracted fund raiser or otherwise, a charitable organization shall file a registration statement with the secretary of state in a format prescribed and adopted by the secretary of state by rule.</p> <p>B. A charitable organization must file an annual registration statement between September 1 and September 30 of each year following the calendar year in which the charitable organization files its initial registration statement with the secretary of state in a format that is prescribed and adopted by the secretary of state by rule.</p> <p>D. <u>The secretary of state shall file and preserve all information required to be filed with the secretary of state pursuant to this section for five years from the date of filing, after which the information may be destroyed.</u> This information is public information and is open to public inspection.</p> <p>Arizona Revised Statutes 44-6556: Public records. Registration statements, applications, reports, contracts or agreements of charitable organizations and contracted fund raisers and all other documents and information required to be filed under this article with the secretary of state are public records in the office of the secretary of state and are open to the public for inspection at such times as the secretary of state prescribes.</p> <p>Arizona Revised Statutes 44-6559: <u>Rules. The secretary of state shall adopt reasonable rules as necessary to interpret or carry out the provisions of this article.</u></p>
California	Attorney General	<p>California Government Code Section 12586(a): "[E]very charitable corporation, unincorporated association, and trustee subject to this article shall ... file with the Attorney General periodic written reports, under oath, setting forth information as to the nature of the assets held for charitable purposes and the administration thereof by the corporation, unincorporated association, or trustee, <u>in accordance with rules and regulations of the Attorney General.</u>"</p>

		<p>California Government Code Section 12586(b): “The Attorney General shall make rules and regulations as to the time for filing reports, <i>the contents thereof</i>, and the manner of executing and filing them. The Attorney General <u>may... establish different rules for the different classes as to time and nature of the reports required</u> to the ends (1) that he or she shall receive reasonably current, periodic reports as to all charitable trusts or other relationships of a similar nature, which will enable him or her to ascertain whether they are being properly administered, and (2) that periodic reports shall not unreasonably add to the expense of the administration of charitable trusts and similar relationships.”</p> <p>California Government Code Section 12581: “This article applies to all charitable corporations ... over which the state or the Attorney General has enforcement or supervisory powers ...[but] shall not apply to any committee ...which is required to and does file any statement pursuant to the provisions of [California’s Election Law].”</p> <p>California Government Code Section 12582.1: “Charitable corporation” means any nonprofit corporation organized under the laws of this State for charitable or eleemosynary purposes and any <u>similar foreign corporation</u> doing business or holding property in this State for such purposes.”</p>
Connecticut	Department of Consumer Protection	<p>**Note: the nonprofit disclosure requirements indicated below were enhanced with the passage of Public Act 13-180, which was signed into law by Governor Dannel Malloy in June 2013.</p> <p>Connecticut General Assembly Statutes Section 21a-190b(a): "Every charitable organization ... shall annually register with the department prior to conducting any solicitation or prior to having any solicitation conducted on its behalf by others. <u>Application for registration shall be in a form prescribed by the commissioner...</u>"</p> <p>Connecticut General Assembly Statutes Section 21a-190c: "Every charitable organization required to register ... shall annually file with the department, as part of such organization's application for registration, a financial report for its most recently completed fiscal year, which report shall include a financial statement <u>and such other information as the commissioner may require..</u>"</p> <p>Connecticut General Assembly Statutes Section 21a-190k: Regulations: "The commissioner may adopt regulations ... to carry out the provisions of sections 21a-190a to 21a-190l, inclusive."</p>

		<p>Connecticut General Assembly Statutes Section 21a-190a(1): “Charitable organization’ means any person who is or holds himself out to be established for any benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental conservation, civic or eleemosynary purpose...”</p>
Georgia	Secretary of State	<p>Official Code of Georgia Annotated Section 43-17-2 (2010)</p> <p>43-17-2. Definitions As used in this chapter, the term: (2) "Charitable organization" means any benevolent, philanthropic, patriotic, or eleemosynary (of, relating to, or supported by charity or alms) person, as that term is defined in this Code section, who solicits or obtains contributions solicited from the general public, any part of which contributions is used for charitable purposes; and any person who or which falsely represents himself, herself, or itself to be a charitable organization as defined by this paragraph. The term charitable organization shall not include a religious organization as defined in paragraph (12) of this Code section.</p> <p>Official Code of Georgia Annotated 43-17-5 (2010) 43-17-5. Registration of charitable organizations; service of process; financial statement; tax exemption determination; denial; renewal; amendments; fees; records (b) (1) Every charitable organization, except those exempt from registration pursuant to Code Section 43-17-9, which intends to solicit in this state or have contributions solicited in this state on its behalf by other charitable organizations, commercial coventurers, or paid solicitors shall, prior to any solicitation, <u>file a registration statement with the Secretary of State upon a form prescribed by the Secretary of State</u>. No charitable organization required to be registered under this Code section shall solicit prior to registration.</p> <p>(2) A registration statement, which the Secretary of State may require to be in whole or in part an electronic filing, shall be signed by an authorized executive officer of the charitable organization and shall contain the following information: (A) The name under which the charitable organization intends to solicit contributions; ...</p> <p>(H) <u>Such other information as the Secretary of State may require.</u></p> <p>(d) A charitable organization shall maintain for not less than three years a record of all contributions including, but</p>

		not limited to, the name and address of each contributor giving \$25.00 or more directly or indirectly to the charitable organization, the date and amount of the contribution, and the location and account number of all bank or other financial institution accounts in which the charitable organization has deposited contributions.
Kansas	Secretary of State	<p>Kansas Statutes Annotated Article 17</p> <p>17-1760. Same; definitions. As used in this act:</p> <p>(a) "Charitable organization" means any person who engages in the activity of soliciting funds or donations for, or purported to be for, any fraternal, benevolent, social, educational, alumni, historical, humane, public health or other charitable purpose. Charitable organization does not include political parties, political candidates or committees formed in support of political candidates or political parties;</p> <p>17-1759. Solicitations by charitable organizations; title of act. This act may be cited as the "charitable organizations and solicitations act."</p> <p>17-1761. Same; registration of charitable organizations. Except for charitable organizations which are exempted under K.S.A. 17-1762, no charitable organization shall solicit funds in this state, nor employ a professional fund raiser or professional solicitor to solicit funds in this state, for any charitable purpose unless such charitable organization, and each professional fund raiser or professional solicitor employed by such charitable organization have filed all registrations and reports required by K.S.A. 17-1763, 17-1764 and 17-1765.</p> <p>17-1763. Same; registration statement; audited financial statement; issuance of license and identification number; fee; rules and regulations. (a) Except for charitable organizations exempt under K.S.A. 17-1762 and amendments thereto, no charitable organization shall solicit funds in this state, nor employ a professional fund raiser to solicit funds in this state, for any charitable purpose, unless such organization has filed with the office of the secretary of state of the state of Kansas, a registered statement prior to solicitation.</p> <p>(b) <u>The secretary of state shall prescribe registration forms</u> which shall be signed and sworn to by two authorized officers of the organization, including the chief fiscal officer, and which shall include the following information about such organization's activities in this state:</p> <p>(f) <u>The secretary of state may adopt rules and regulations necessary</u> for the administration of this act.</p>
Maryland	Secretary of State	<p>**Note: the nonprofit disclosure requirements indicated below were enhanced with the passage of the Campaign Finance Reform Act of 2013 which was signed into law by Governor Martin O'Malley in May 2013.</p> <p>Maryland Code, Business Regulation Section 6-402:</p>

		<p>"A registration statement shall be <u>on the form that the Secretary of State provides...</u> [and] shall contain or be accompanied by ... <u>any other information that the Secretary of State requires by regulation.</u>"</p> <p>Maryland Code, Business Regulation Section 6-204: "The Secretary of State shall adopt regulations to carry out this title."</p> <p>Maryland Code, Business Regulation Section 6-101(d): "‘Charitable organization’ means: (i) a person that: 1. is or holds itself out to be a benevolent, educational, eleemosynary, humane, patriotic, philanthropic, or religious organization; and 2. solicits or receives charitable contributions from the public... [but] does not include ... a political club, committee, or party."</p>
Massachusetts	Attorney General	<p>Massachusetts General Laws Chapter 12, Section 8F: "The trustee or trustees or the governing board of every public charity shall annually, at a time to be determined by the [director of public charities], file with the division a written report for its last preceding fiscal year. Such report shall be filed <u>on forms prescribed by the [director of public charities] and shall contain such financial and other information as the [director of public charities] may require.</u>"</p> <p>Massachusetts General Laws Chapter 12, Section 8E: "(a) A public charity established, organized or chartered under the laws of the commonwealth or under the laws of any other state shall, before engaging in charitable work or raising funds in the commonwealth, register with the division by filing a copy of its charter, articles of organization, agreement of association or instrument of trust, a true copy of its constitution and by-laws and a one-time initial registration fee of \$100, <u>together with such other information as the [director of public charities] may require.</u>" [NB: The terms "charity" and "public charity" have no statutory definition in Massachusetts.]</p>
Minnesota	Attorney General	<p>Minnesota Statutes Section 309.53(1): "Every charitable organization that is required to file or that files a registration statement pursuant to section 309.52 shall file an annual report with the attorney general <u>upon forms provided by the attorney general</u> or on forms identical thereto . . . ";</p> <p>Minnesota Statutes Section 309.591: "The attorney general may promulgate such rules as are reasonably necessary to carry out and make effective the provisions and purposes of this chapter."</p>

		<p>Minnesota Statutes Section 309.59:</p> <p>"Sections 309.50 to 309.61 shall not be construed to limit or to restrict the exercise of the powers or the performance of the duties of the attorney general which the attorney general otherwise is authorized to exercise or perform under any other provision of law."</p> <p>M.S.A. § 309.50(4): "'Charitable organization' means any person who engages in or purports to engage in solicitation for a charitable purpose and includes a chapter, branch, area office or similar affiliate or any person soliciting contributions within the state for a parent charitable organization, but <u>does not include an organization whose primary purpose is supporting or opposing any candidate for elective office, or influencing the nomination for election or the election of any candidate for elective office.</u>"</p>
Mississippi	Secretary of State, The Securities and Charities Division	<p>Mississippi Statutes Regulation of Charitable Solicitations:</p> <p>§79-11-501. Definitions</p> <p>(ii) "Charitable organization" is not limited to only those organizations to which contributions are tax deductible under Section 170 of the Internal Revenue Code.</p> <p>§ 79-11-503. Registration statement; filing fee; forms; records; exceptions.</p> <p>(1) Except as otherwise provided in Section 79-11-505 and prior to any solicitation of contributions, every charitable organization as defined in Section 79-11-501 which solicits or intends to solicit contributions by any means whatsoever shall file a registration statement with, and pay a filing fee of Fifty Dollars (\$50.00) to, the Secretary of State. A registration statement that contains false, misleading, deceptive or incomplete information or documentation shall not be considered sufficient. The registration statement shall be on forms prescribed by the Secretary of State and shall contain the following information <u>and such other information that the Secretary of State may require by rule...</u></p> <p>§ 79-11-504. Authority of Secretary of State to promulgate rules and regulations.</p> <p>The Secretary of State shall have the authority to:</p> <p>(a) Promulgate rules of procedure and regulations necessary for the administration of Sections 79-11-501 through 79-11-529, Mississippi Code of 1972, subject to the provisions of the Mississippi Administrative Procedures Law.</p> <p>(b) Honor written requests from interested person for interpretative opinions regarding registration and exemptions from registration.</p> <p>(c) Publish and disseminate information to the public concerning persons subject to Sections 79-11-501 through 79-</p>

11-529, Mississippi Code of 1972.

(d) Perform any other functions and duties which may be necessary to carry out the provisions of Sections 79-11-501 through 79-11-529, Mississippi Code of 1972.

§79-11-507. Reports to Secretary of State; financial statements; administrative penalties.

(1) Every charitable organization registered pursuant to Section 79-11-503 which shall receive in any fiscal year contributions in excess of One Hundred Thousand Dollars (\$100,000.00), and every charitable organization whose fund-raising functions are not carried on solely by persons who are unpaid for such services shall file a financial report for its most recently completed fiscal year with the Secretary of State. Such financial report shall be filed along with the registration statement required by Section 79-11-503 and any renewals thereafter. Such financial report shall include a balance sheet and statement of income and expense and shall be consistent with forms furnished by the Secretary of State clearly setting forth the following: gross receipts and gross income from all sources, broken down into total receipts and income from each separate solicitation project or source; cost of administration; cost of solicitation; cost of programs designed to inform or educate the public; total net amount disbursed or dedicated for each major purpose, charitable or otherwise. The report shall be signed by the president or other authorized officer and the chief fiscal officer of the organization, and shall be accompanied by an opinion signed by an independent certified public accountant that the financial statement therein fairly represents the financial operations of the organization in sufficient detail to permit public evaluation of its operations. Such financial report shall be accompanied by any and all forms required to be filed by a charitable organization with the United States Internal Revenue Service.

(2) Every organization registered pursuant to Section 79-11-503 that shall receive in any fiscal year contributions not in excess of One Hundred Thousand Dollars (\$100,000.00) and all of whose fund-raising functions are carried on by persons who are unpaid for such services shall file a financial report along with the registration statement required by Section 79-11-503 and any renewals thereafter with the Secretary of State upon forms prescribed by him. Such financial report shall cover the most recently completed fiscal year and include such information as required by the Secretary of State by rule or otherwise, including, but not limited to, the gross receipts from contributions and the use of the proceeds of such contributions. The report shall be signed by the president or other authorized officer of the organization who shall certify under penalties of perjury that the statements therein are true and correct to the best of their knowledge. Such financial report shall be accompanied by any and all forms required to be filed by a charitable organization with the United States Internal Revenue Service.

(3) Any charitable organization receiving more than Twenty-five Thousand Dollars (\$25,000.00) but less than One Hundred Thousand Dollars (\$100,000.00) shall, at the request of the Secretary of State, submit additional financial information, including, but not limited to, an audited financial statement prepared in accordance with generally accepted accounting principles and accompanied by an opinion signed by an independent certified

		public accountant that the financial statement therein fairly represents the financial operations of the organization in sufficient detail to permit public evaluation of its operations.
New Hampshire	Attorney General	<p>New Hampshire Revised Statutes Annotated Section 7:28:</p> <p>"The <u>attorney general shall make rules and regulations as to the time for filing reports, the contents thereof</u>, and the manner of executing and filing them. He may classify trusts and other relationships concerning property held for a charitable purpose as to purpose, nature of assets, duration of the trust or other relationship, amount of assets, amounts to be devoted to charitable purposes, nature of trustee, or otherwise, and <u>may establish different rules for the different classes as to time and nature of the reports</u> required to the ends (a) that he shall receive reasonably current, periodic reports as to all charitable trusts or other relationships of a similar nature, which will enable him to ascertain whether they are being properly administered, and (b) that periodic reports shall not unreasonably add to the expense of the administration of charitable trusts."</p> <p>New Hampshire Revised Statutes Annotated Section 7:21 defines "charitable trusts" to include "charitable organizations."</p>
New Jersey	Attorney General	<p>New Jersey Statutes Annotated Section 45:17A-23:</p> <p>"A charitable organization, unless exempted from registration requirements pursuant to section 9 of this act, shall file a registration statement with the Attorney General <u>on forms prescribed by the Attorney General</u>."</p> <p>New Jersey Statutes Annotated Section 45:17A-24(b):</p> <p>The "long form" registration statement shall contain "<u>Any other information as may be prescribed by rules adopted by the Attorney General</u>. In prescribing the requirements of the long form, the Attorney General shall permit a charitable organization to incorporate by reference any information reported by the organization on its Service Form 990 and Schedule A (990)."</p> <p>New Jersey Statutes Annotated Section 45:17A-2:</p> <p>"The Attorney General shall...Propose and adopt rules pursuant to the Administrative Procedure Act ... to effectuate the purposes of this act..."</p> <p>New Jersey Statutes Annotated Section 45:17A-24(d)(1):</p> <p>"Every charitable organization required to file a long form registration shall file an annual financial report with the</p>

		<p>Attorney General [which] shall include: a balance sheet; a statement of support revenue, expenses and changes in fund balance; a statement of functional expenses at least divided into program, management, general, and fund raising; <u>and such other information as the Attorney General shall by rule require.</u>"</p> <p>New Jersey Statutes Annotated Section 45:17A-20: "Charitable organization" means: (1) any person determined by the federal Internal Revenue Service to be a tax exempt organization pursuant to section 501(c)(3) ... or (2) any person who is, <i>or holds himself out to be</i>, established for any benevolent, philanthropic, humane, social welfare, public health, or other eleemosynary purpose ... or any person who in any manner employs a charitable appeal as the basis of any solicitation, or an appeal which has a tendency to suggest there is a charitable purpose to any such solicitation.</p>
New Mexico	Attorney General	<p>ARTICLE 22 CHARITABLE SOLICITATIONS NMSA 1978 §57-22-1 et seq</p> <p>57-22-2. Purpose. The purpose of the Charitable Solicitations Act [this article] is to authorize the attorney general to monitor, supervise and enforce the charitable purposes of charitable organizations and regulate professional fundraisers operating in this state.</p> <p>57-22-3. Definitions. As used in the Charitable Solicitations Act [this article]: A. "charitable organization" means any entity that has been granted exemption from the federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or identifies itself to the public as having a charitable purpose; B. "charitable purpose" means a benevolent, social welfare, scientific, educational, environmental, philanthropic, humane, patriotic, public health, civic or other eleemosynary objective or an activity conducted in support of or in the name of law enforcement officers, firefighters or other persons who protect public safety;</p> <p>57-22-5. Attorney general to maintain register of charitable organizations as public record. The attorney general shall establish and maintain a register of all documents filed by charitable organizations in accordance with the Charitable Solicitations Act [this article]. The register shall be open to public inspection except that the attorney general may withhold from public inspection documents or information obtained in the course of an investigation undertaken pursuant to the provisions of that act or that otherwise may be withheld from public inspection by law.</p>

		<p>57-22-6. Filing of required documents.</p> <p>A. A charitable organization existing, operating or soliciting in the state, unless exempted by Section 57-22-4 NMSA 1978, <u>shall register with the attorney general on a form provided by the attorney general</u>; correct any deficiencies in its registration upon notice of deficiencies provided by the attorney general and provide a copy of its IRS Form 1023 Form 1024 application for exempt status with its registration.</p> <p>B. The attorney general shall notify each charitable organization required to register within ten business days of his receipt of the registration form of any deficiencies in the registration and may make rules in accordance with the State Rules Act [Chapter 14, Article 4 NMSA 1978], as are necessary for the proper administration of this section, including;</p> <p>(1) <u>requirements for filing additional information</u>, including disclosure of professional fundraising counsel retained by the charitable organization; and</p> <p>(2) provisions for suspending the filing of reports or granting an exemption from the registration and reporting requirements of this section for a charitable organization subject to audit, registration, charter or other requirements of a statewide, regional or national association and if it is determined that such reports or registration is not necessary for the protection of the public interest.</p> <p>C. In addition to any other reporting requirements pursuant to the Charitable Solicitations Act [this article], every charitable organization that has received tax-exempt status pursuant to Section 501(c)(3) of the federal Internal Revenue Code of 1986, as amended, and is required to file a form 990, 990EZ or 990PF pursuant to the Internal Revenue Code of 1986, as amended, shall file that form and the accompanying schedule A annually with the office of the attorney general up to six months following the close of the charitable organization's fiscal year.</p>
Ohio	Attorney General	<p>Ohio Revised Code Section 1716.04</p> <p>Every charitable organization required to register shall file an annual financial report that includes "<u>Any other information that the attorney general, by rule, may require.</u>"</p> <p>Ohio Revised Code Section 1716.02:</p> <p>With its initial registration, any charitable organization that raises funds in Ohio shall file its annual financial report and with the A.G. and "[a]ny other information that the attorney general may, by rule, require."</p> <p>Ohio Revised Code Section 1716.01:</p> <p>Defines "charitable organization" as a 501(c)(3) or "[a]ny person that is or holds itself out to be established for any benevolent, philanthropic, patriotic, educational, humane, scientific, public health, environmental conservation, civic, or other eleemosynary purpose ... or any person who in any manner employs a charitable appeal as the basis of any solicitation or an appeal that suggests that there is a charitable purpose to any solicitation."</p>

Oklahoma	Secretary of State	<p>Oklahoma Statutes Title 18. Corporations, Chapter 14: Religious, Charitable, and Educational Corporations - Oklahoma Solicitation of Charitable Contributions Act</p> <p>Section 552.2 – Definitions. As used in the Oklahoma Solicitation of Charitable Contributions Act:</p> <ol style="list-style-type: none"> 1. "Person" means any individual, organization, group, association, partnership, corporation, limited liability company, trust, or other entity, except as otherwise provided in Section 552.1 et seq. of this title; 2. "Charitable organization" means any person soliciting contributions in this state, other than a natural person, that is described in Section 501(c) of Title 26 of the United States Code, that solicits contributions as described in this act and that is organized and operated primarily for religious, charitable, scientific, literary, educational, artistic, cultural, economic development, civic improvement, testing for public safety, research, humanitarian, animal welfare, recreational, or environmental protection purposes; to foster national or international amateur sports competition, but only if no part of its activities involves the provision of athletic facilities or equipment; to prevent cruelty to children, the elderly, identified populations, or animals; to relieve poverty, hunger, or homelessness; to support law enforcement or citizen protection organizations or agencies; or to provide emergency relief; <p>Section 552.3 - Registration - Fee - Information to be Filed</p> <p>A. No charitable organization, except those specifically exempt under Section 552.4 of this title, shall solicit or accept contributions from any person in this state by any means whatsoever until the charitable organization shall have registered with the Office of the Secretary of State and filed information, as required by this act, on forms approved by that office..... The information so filed shall be available to the general public as a matter of public record. The forms containing the information shall be signed and acknowledged by a party duly authorized to sign on behalf of the charitable organization and shall include the following:</p> <ol style="list-style-type: none"> 4. The purposes for which the contributions solicited or accepted are to be used; provided, however, no contribution or any portion thereof shall inure to the private benefit of any voluntary solicitor; 10. <u>Additional information as may be deemed necessary and appropriate by the Secretary of State in the public interest or for the specific protection of contributors.</u>
Utah	Div. of Consumer Protection	<p>**Note: the nonprofit disclosure requirements indicated below were enhanced with the passage of H.B. 43 which was signed into law by Governor Gary Herbert in April 2013.</p> <p>Utah Code Title 13, Commerce and Trade Chapter 22, Charitable Solicitations Act</p>

13-22-2. Definitions.

As used in this chapter:

(1) (a) "Charitable organization" or "organization" means any person, joint venture, partnership, limited liability company, corporation, association, group, or other entity:

(i) that is or holds itself out to be:

(A) a benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or eleemosynary, social welfare or advocacy, public health, environmental or conservation, or civic organization;

(B) for the benefit of a public safety, law enforcement, or firefighter fraternal association; or

(C) established for any charitable purpose;

(ii) who solicits or obtains contributions solicited from the public for a charitable purpose; or

(iii) in any manner employs a charitable appeal as the basis of any solicitation or employs an appeal that reasonably suggests or implies that there is a charitable purpose to any solicitation.

(b) "Charitable organization" includes a "chapter," "branch," "area," "office," or similar "affiliate" or any person soliciting contributions within the state for a charitable organization that has its principal place of business outside the state.

(2) "Charitable purpose" means any benevolent, educational, philanthropic, humane, patriotic, religious, eleemosynary, social welfare or advocacy, public health, environmental, conservation, civic, or other charitable objective or for the benefit of a public safety, law enforcement, or firefighter fraternal association.

13-22-5. Registration required.

(1) (a) It is unlawful for any organization to engage in an activity described in Subsection (1)(b) unless the organization is:

(i) exempt under Section 13-22-8; or

(ii) registered with the division in accordance with this chapter.

(b) Unless an organization meets the requirements of Subsection (1)(a), the organization may not knowingly solicit, request, promote, advertise, or sponsor a charitable solicitation if the charitable solicitation:

(i) originates in Utah;

(ii) is received in Utah; or

(iii) is caused to be made through business operations in Utah.

(2) Subsection (1) does not prohibit an organization from receiving an unsolicited contribution.

(3) It is unlawful for any professional fund raiser to knowingly solicit, request, promote, advertise, or sponsor the solicitation in this state of any contribution for a charitable organization, whether or not the charitable organization is exempt under Section 13-22-8, unless the professional fund raiser and any nonexempt charitable organization that is benefitted are registered with the division.

		<p>(4) It is unlawful for any professional fund raising counsel or consultant to knowingly plan, manage, advise, counsel, consult, or prepare material for, or with respect to, the solicitation in this state of a contribution for a charitable organization, whether or not the charitable organization is exempt under Section 13-22-8, unless the professional fund raising counsel or consultant and any nonexempt charitable organization that is benefitted are registered with the division.</p> <p>13-22-6. Application for registration.</p> <p>(1) An applicant for registration or renewal of registration as a charitable organization shall:</p> <p>(b) <u>submit an application on a form approved by the division which shall include:</u></p> <p>(xv) <u>any additional information the division may require by rule.</u></p>
Washington	Secretary of State	<p>Revised Code of Washington Charitable Solicitations Act, Chapter 19.09</p> <p>19.09.020</p> <p>(2) "Charitable organization" means any entity that solicits or collects contributions from the general public where the contribution is or is purported to be used to support a charitable purpose, but does not include any commercial fund-raiser, commercial fund-raising entity, commercial coventurer, or any fund-raising counsel, as defined in this section. Churches and their integrated auxiliaries, and political organizations are not charitable organizations, but all are subject to RCW</p> <p>19.09.100 (15) through (18). RCW 19.09.075</p> <p>Charitable organizations -- Application for registration or renewal -- Contents -- Fee.</p> <p>(1) An application for initial registration and renewal as a charitable organization must be submitted on the form approved by the secretary and must contain:</p> <p>(k) <u>Such other information the secretary deems necessary by rule.</u></p>

PART TWO: Charities regulator has some authority to strengthen state rules on nonprofit disclosure.

State	Main Charities Regulator	Relevant Statute/Comments
Alabama	Attorney General	<p>Code of Alabama Section 13A-9-70</p> <p>Definitions. The following words and phrases as used in this article shall have the following meanings unless a different meaning is required by the context:</p> <p>(1) CHARITABLE ORGANIZATION. Any benevolent, philanthropic, or patriotic person, or one purporting to be such, consistent with the then-controlling definition provided in the Internal Revenue Code of the United States of America, which solicits and collects funds for charitable purposes and includes each local, county, or area division within this state of the charitable organization; provided the local, county, or area division has authority and discretion to disburse funds or property otherwise than by transfer to any parent organization.</p> <p>Code of Alabama Section 13A-9-71</p> <p>(g) Every charitable organization registered pursuant to subsection (a) shall, within 90 days of the close of its fiscal year ending after the date on which the charitable organization files its initial registration pursuant to subsection (a), file an annual written report. <u>Each annual report shall be sworn to under oath, shall be in the form prescribed by the Attorney General and shall include a financial statement covering the fiscal year, clearly setting forth the gross income, expenses, and net income inuring to the benefit of the charitable organization, a balance sheet as of the close of the fiscal year, and a schedule of the activities carried on by the charitable organization in the performance of its purposes and the amounts expended thereon during the fiscal year.</u> An organization may also meet this requirement by submitting a copy of the Form 990 submitted to the Internal Revenue Service as required by federal law. A fee of twenty-five dollars (\$25) payable to the Attorney General shall accompany the report at the time of filing.</p> <p>Code of Alabama Section 13A-9-71</p> <p>(n) <u>Nothing contained in this section shall prevent the publication of names of contributors without their written consent in an annual or other periodic report issued by a charitable organization for the purpose of reporting its operations and affairs to its membership or for the purpose of reporting contributions to contributors.</u></p>

Colorado	Attorney General	<p>Colorado Revised Statutes Section 6-16-104(f): "A financial report for the most recent fiscal year, <u>upon a form prescribed by the secretary of state</u>, or, in the discretion of the secretary of state, a copy of the charitable organization's federal form 990, with all schedules <u>except schedules of donors</u>, for the most recent fiscal year."</p> <p>Colorado Revised Statutes Section 6-16-103: "Charitable organization' means any person who is or holds himself out to be established for any benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental conservation, civic, or other eleemosynary purpose..."</p>
Florida	Dept. of Agriculture & Consumer Services	<p>Florida Statutes 496.407(1): "A charitable organization ... must file an annual financial report for the immediately preceding fiscal year <u>upon a form prescribed by the department</u>....."</p> <p>Florida Statutes 496.424: "The department has the authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of ss. 496.401-496.424"</p> <p>BUT: F.S.A. § 496.403: "Sections 496.401-496.424 do not apply to political contributions solicited in accordance with the election laws of this state."</p>
Illinois	Attorney General	<p>225 Illinois Compiled Statutes 460/4(a): "Every charitable organization registered pursuant to Section 2 of this Act which shall receive in any 12 month period ending upon its established fiscal or calendar year contributions in excess of \$300,000 and every charitable organization whose fund raising functions are not carried on solely by staff employees or persons who are unpaid for such services, if the organization shall receive in any 12 month period ending upon its established fiscal or calendar year contributions in excess of \$25,000, shall file a written report with the Attorney General <u>upon forms prescribed by him</u> ... which written report shall include a financial statement covering the immediately preceding 12 month period of operation. Such financial statement shall include a balance sheet and statement of income and expense, and shall be <u>consistent with forms furnished by the Attorney General</u> clearly setting forth the following: gross receipts and gross income from all sources, broken down into total receipts and income from each separate solicitation project or source..."</p>

		<p>225 Illinois Compiled Statutes 460/1(a): “Charitable organization’ means any benevolent, philanthropic, patriotic, or eleemosynary person or one purporting to be such which solicits and collects funds for charitable purposes...”</p> <p>225 Illinois Compiled Statutes 460/3(b): “The following persons shall not be required to register with the Attorney General... 4. Any bona fide union, bona fide political organization or bona fide political action committee, which does not solicit funds for a charitable purpose.”</p>
Hawaii	Attorney General	<p>Hawaii Revised Statutes 467B-1 Definitions As used in this chapter, unless the context otherwise requires: "Charitable organization" means: (1) Any person determined by the Internal Revenue Service to be a tax exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, as amended; or (2) Any person who is or holds itself out to be established for any benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental conservation, civic, or other eleemosynary purpose, or any person who in any manner employs a charitable appeal as the basis of any solicitation or an appeal that has a tendency to suggest there is a charitable purpose to the solicitation. The term includes each county or other local division of the charitable organization within this State, if the division has the authority and discretion to disburse funds or property otherwise than by transfer to any parent organization. The term does not include any federal, state, or county agency, or political parties and candidates for federal, state, or county office required to file financial information with federal or state election authorities or commissions.</p> <p>Hawaii Revised Statutes 467B-2.1 Registration of charitable organizations. (a) Every public benefit corporation domiciled in Hawaii and every charitable organization not exempted by section 467B-11.5 shall register with the department prior to conducting any solicitation or prior to having any solicitation conducted on its behalf by others. Two authorized officers of the charitable organization shall sign the registration form and shall certify that the statements therein are true and correct to the best of their knowledge subject to penalties imposed by section 710-1063. A consolidated application for registration may, at the option of the charitable organization, be submitted by a parent organization for itself and any or all of its related foundations, supporting organizations, chapters, branches, or affiliates in this State. (b) The attorney general may make available a registration form to assist in the registration by charitable</p>

		<p>organizations that must register in other states and shall designate the uniform registration statement developed by the National Association of State Charity Officials be used as the registration form under this section.</p> <p>Hawaii Revised Statutes 467B-6.5: Annual financial reports (a) Every charitable organization required to register pursuant to section 467B-2.1 shall annually file with the department a report for its most recently completed fiscal year. <u>The report shall include a financial statement and other information as the department may require.</u></p>
Iowa	Attorney General	<p>Iowa Code Annotated Section 13C.2: "A charitable organization shall provide, <u>upon request</u> and without cost to the requesting party, financial disclosure information concerning <u>contributions received</u> and disbursements for the organization's last complete fiscal year, or, if the organization has not completed a full fiscal year, for its current fiscal year, to the attorney general or a person requesting the information within five days of the request...."</p> <p>Iowa Code Annotated Section 13C.6: "The attorney general may make reasonable rules to enforce the provisions of this chapter."</p>
Michigan	Attorney General	<p>Michigan Compiled Laws Annotated Section 14.256(b): "The attorney general shall make rules and regulations as to the time for filing reports, <u>the contents thereof</u>, and the manner of executing and filing them. He may classify charitable trusts as to purpose, nature of assets, duration of the charitable trust, amount of assets, amounts to be devoted to charitable purposes, nature of trustee, or otherwise, and <u>may establish different rules for the different classes as to time and nature of the reports required</u> to the ends (1) that he shall receive reasonably current, periodic reports as to all charitable trusts which will enable him to ascertain whether they are being properly administered, and (2) that periodic reports shall not unreasonably add to the expense of the administration of charitable trusts."</p> <p>Michigan Compiled Laws Annotated Section 400.273(1): "Before a solicitation, unless the charitable organization is exempt from registration and reporting under section 13, a charitable organization that solicits or intends to solicit or receives or intends to receive contributions from persons by any means shall register with the attorney general as provided in this act."</p>

Michigan Compiled Laws Annotated | Section 400.273(2):

"A charitable organization described in subsection (1) shall register under this act by submitting a registration statement in the form prescribed by the attorney general."

Michigan Compiled Laws Annotated | Section 400.283:

Exemptions from registration and reporting requirements.

Sec. 13. A charitable organization's registration and reporting requirements under this act do not apply to any of the following:

- (a) A person that requests a contribution for the relief or benefit of an individual, specified by name at the time of the solicitation, if the contributions collected are turned over to the named beneficiary after deducting reasonable expenses for costs of solicitation, if any, and if all fund-raising functions are carried on by persons that are unpaid, directly or indirectly, for their services.
- (b) A charitable organization that does not intend to solicit and receive and does not actually receive contributions of more than \$25,000.00 during any 12-month period if all of its fund-raising functions are carried on by persons that are unpaid for their services and if the organization makes available to its members and the public a financial statement of its activities for its most recent fiscal year. If the gross contributions received during any 12-month period exceed \$25,000.00, the person shall register under this act within 30 days after the date its total contributions in that fiscal year exceed \$25,000.00.
- (c) A charitable organization that does not invite the general public to become a member of the organization and confines solicitation activities to solicitation drives solely among its members, directors, trustees, or their immediate families. As used in this subdivision, "immediate family" means the grandparents, parents, spouse, brothers, sisters, children, and grandchildren of a member, director, or trustee.
- (d) An educational institution certified by the state board of education.
- (e) A veterans' organization incorporated under federal law.
- (f) An organization that receives funds from a charitable organization registered under this act that does not solicit or intend to solicit or receive or intend to receive contributions from persons other than the registered charitable organization, if the organization makes available to its members and the public a financial statement of its activities for its most recent fiscal year.
- (g) A licensed hospital, hospital-based foundation, or hospital auxiliary that solicits funds solely for 1 or more licensed hospitals.
- (h) A nonprofit service organization that is exempt from taxation under a provision of the internal revenue code other than section 501(c)(3), 26 USC 501(c)(3), whose principal purpose is not charitable, but that solicits from time to time funds for a charitable purpose by members of the organization that are not paid for the solicitation. Funds solicited under this subdivision shall be wholly used for the charitable purposes for which they were solicited, and the organization must file with the attorney general a federal form 990 or 990-EZ.

Missouri	Attorney General	<p>Missouri Statutes Section 407.462(1): "No charitable organization shall solicit funds in this state, nor employ a professional fund-raiser to solicit funds in this state, for any charitable purpose, unless it has filed with the office of the attorney general an initial registration, which shall be sworn to under oath and shall be <u>in the form and manner prescribed by the attorney general</u>. . ."</p> <p>Missouri Statutes Section 407.462(2): "[E]very charitable organization shall, within seventy-five days of the close each of its fiscal years ending after the date on which the charitable organization files its initial registration under subsection 1 of this section, file an annual report . <u>Each annual report...shall be in the form and shall be filed in the manner prescribed by the attorney general</u>"</p> <p>Missouri Statutes Section 407.456(2)(5): "The provisions of sections 407.459 and 407.462, and subsection 1 of section 407.469 shall not apply to . . . Any solicitation for funds governed by chapter 130, RSMo." [Missouri campaign finance disclosure law].</p> <p>Missouri Statutes Section 407.453(1): "'Charitable organization", any person, as defined in section 407.010, who does business in this state or holds property in this state for any charitable purpose and who engages in the activity of soliciting funds or donations for, or purported to be for, any fraternal, benevolent, social, educational, alumni, historical or other charitable purpose."</p>
North Carolina	Secretary of State	<p>North Carolina General Statutes Annotated Section 131F-5(a): "[A] charitable organization, sponsor, or person that intends to solicit contributions in this State, to have funds solicited on its behalf, or to participate in a charitable sales promotion or sponsor sales promotion shall obtain a license by filing an application with the Department [and] obtaining approval of that application by the Department . . ."; N.C.G.S.A. s. 131F-5(c): "The license shall be renewed on an annual basis."</p> <p>North Carolina General Statutes Annotated Section 131F-33: "The Department shall have the authority to adopt rules necessary for the implementation of this Chapter <u>or to prevent false or deceptive statements or conduct in the solicitation of charitable contributions</u>."</p> <p>North Carolina General Statutes Annotated Section 131F-2(3): "'Charitable organization' means any person who has or holds out as having a section 501(c)(3) tax exempt determination by the Internal Revenue Service and operates for a charitable purpose, or a person who is or holds himself out to be established for a charitable or civic purpose; or a person who employs a charitable or civic appeal as the basis of a solicitation, or employs an appeal that suggests there is a charitable or civic purpose for the appeal."</p>

Tennessee	Secretary of State	<p>Tennessee Charitable Solicitations Act</p> <p>§ 48-101-501. Definitions As used in this part, unless the context otherwise requires:</p> <p>(1) “Charitable organization” means a group which is or holds itself out to be a benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or eleemosynary organization, or for the benefit of law enforcement personnel, firefighters, or other persons who protect the public safety, or any person who solicits or obtains contributions solicited from the public for charitable purposes. A chapter, branch, area, office or similar affiliate or any person soliciting contributions within the state for a charitable organization which has its principal place of business outside the state shall be a charitable organization for the purposes of this part. “Charitable organization” does not include any authorized individual who solicits, by authority of the organization, solely on behalf of a registered or exempt organization, or on behalf of an organization excluded from the definition of charitable organization;</p> <p>§ 48-101-503. Review of registration; enforcement of registration requirements; uniform system of accounting; investigations <u>(a) The secretary of state may review registrations and enforce registration requirements for charitable organizations, professional fund raising counsel, and professional solicitors.</u> (b) The secretary of state shall prescribe a uniform system of accounting to determine “fund-raising costs” and “gross contributions” and may adopt rules and regulations to carry out the provisions of this part. Rules and regulations shall be adopted in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. The secretary of state is authorized to promulgate rules and regulations as the secretary of state may deem necessary to effectuate the purposes of Acts 1989, ch. 285. All such rules and regulations shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.</p> <p>§ 48-101-504. Filing of registration statement; initial registration; fee (a) Every charitable organization which intends to solicit contributions from or within this state, or have funds solicited on its behalf, shall, prior to any solicitation, file a registration statement with the secretary of state, upon forms prescribed by the secretary of state. Any registration statement which contains false, misleading, deceptive or incomplete information or documentation shall not be considered sufficient, except as specifically otherwise provided in this part.</p> <p>§ 48-101-506 - Issuance of registration — Renewal — Withdrawal of registration (a) The secretary of state shall examine each application for conformity with the requirements of this part and all</p>
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		<p>relevant rules and regulations.</p> <p>(b) A renewal of registration shall be made in the same manner as the initial registration. The renewal registration shall be accompanied by the following:</p> <p>(1) (A) A copy of a financial statement on forms approved by the secretary of state. Such report shall also specifically identify the amount of funds raised and all costs and expenses incidental thereto, all publicity costs, and costs of allocation or disbursement of funds raised. This report shall be signed by at least two (2) authorized officers of the organization, one of whom shall be the chief fiscal officer. Such officers shall certify that such report is true and correct to the best of their knowledge; and</p> <p>(B) The secretary of state may require, by regulation, a copy of any and all forms required to be filed by the organization with the United States internal revenue service, and any other information the secretary deems appropriate to substantiate how funds were raised and spent by the organization.</p> <p>(2) The annual report of every charitable organization which received in excess of five hundred thousand dollars (\$500,000) in gross revenue during the most recently completed fiscal year shall be accompanied by:</p> <p>(A) An audited financial statement, presented in accordance with generally accepted accounting principles which has been examined by an independent certified public accountant for the purpose of expressing an opinion thereon; and</p> <p>(B) Any and all forms required to be filed by a charitable organization with the United States internal revenue service.</p> <p>For the purpose of determining gross revenue for this subdivision (b)(2) only, grants received from government agencies and private foundations, designated by the internal revenue service as § 501(c)(3) organizations, shall be excluded.</p>
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PART THREE: Legislation is most likely needed to strengthen state rules on nonprofit disclosure

State	Main Charities Regulator	Relevant Statute/Comments
Arkansas	Attorney General, Consumer Protection Division	According to Arkansas Code Annotated , Section 4-28-403, any donor lists obtained pursuant to the subsection of the law on nonprofit registration shall not be subject to disclosure pursuant to the Freedom of Information Act of 1967, § 25-19-101 et seq., without a court order authorizing the disclosure.
Delaware	Attorney General	The Delaware Department of Justice - Attorney General's Office enforces the Delaware Charitable/Fraternal Solicitation Act of 1966, but does not require registration with the Attorney General's Office.
Idaho	Attorney General	Attorney General's Office enforces the Idaho Charitable Solicitation Act, but does not require registration with the AG's office.
Indiana	Attorney General	Under Indiana Code, Section 23-7-8-2, a professional solicitor who is hired to solicit contributions for a charitable organization must register with the Attorney General's Office. Nonprofit organizations, however, are not required to register with the State.
Kentucky	Attorney General	Under Kentucky Revised Statutes, Section 367.657, the filing of federal Form 990 fulfills nonprofit reporting requirements.
Louisiana	Attorney General	According to Title 16 of the Louisiana Administrative Code Pt. III §515, charities are only required to register if they engage a professional solicitor to solicit on their behalf.
Maine	Office of Professional and Occupational Regulation	According to Maine Revised Statutes, Title 9, Part 13: Chapter 385, nonprofit organizations are required to submit annual reports to the Office of Professional and Occupational Regulation, however, the law does not explicitly authorize the office to request additional information.
Montana	Attorney General	Montana law does not require charities operating in the state to register with the Attorney General's Office. However, charities that solicit contributions through telemarketing must comply with Montana's telemarketing laws.
Nebraska	Secretary of State	Following a 1996 repeal of earlier laws, Nebraska does not require nonprofit organizations to register with the State.

Nevada	Dept of Business & Industry	According to Nevada Revised Statutes Section 82.523, nonprofit organizations are only required to file basic contact and governance information with the Department of State. The law does not explicitly authorize the office to request additional information.
North Dakota	Secretary of State	According to North Dakota Code, Chapter 50-22, nonprofit organizations are required to submit annual reports to the Secretary of State, however, the law does not explicitly authorize the Secretary of State to request additional information.
Oregon	Attorney General	According to Oregon Administrative Rules, Section 137-010-0005, nonprofit organizations are required to submit annual reports to the Attorney General, however, the law does not explicitly authorize the Attorney General to request additional information.
Pennsylvania	Secretary of State	According to the Solicitation of Funds for Charitable Purposes Act (10 Pennsylvania Statutes Section 162.5), nonprofit organizations are required to submit annual financial reports to the Secretary of State, however, the law does not explicitly authorize the Secretary of State to request additional information.
Rhode Island	Dept. of Business Regulation, Director	According to Rhode Island General Laws, Title 5, Chapter 5-53.1, nonprofit organizations are required to submit annual reports to the Department of Business Regulation, however, the law does not explicitly authorize the Secretary of State to request additional information. According to the law, a charitable organization shall be deemed to have met the filing requirements by submitting a copy of IRS Form 990.
South Carolina	Secretary of State Div. of Public Charities	According to South Carolina Code, Title 33, Chapter 56, nonprofit organizations are required to submit annual reports to the Secretary of State, however, the law does not explicitly authorize the Secretary of State to request additional information.
South Dakota	Secretary of State	Nonprofit organizations are not required to register with the State of South Dakota.
Texas	Attorney General	Under Texas law, most charities or non-profit organizations are not required to register with the State. Exceptions exist, however, for organizations that solicit for law enforcement, public safety or veterans causes.
Vermont	Secretary of State	According to Vermont Statutes, Title 11B, Chapter 16.22, nonprofit organizations are required to submit biennial reports to the Secretary of State, however, the law does not explicitly authorize the Secretary of State to request additional information.

Virginia	Dept of Agriculture & Consumer Services	According to Virginia Code, Section 57-49, nonprofit organizations shall file “the following specific list of materials that <u>does not include itemized donor information</u> : a copy of a balance sheet and income and expense statement, with the opinion of any independent public accountant, for the organization's immediately preceding fiscal year; a copy of a financial statement certified by an independent public accountant covering, in a consolidated report, complete information as to all the preceding year's fund-raising activities of the charitable organization, showing kind and amount of funds raised, fund-raising expenses and allocation of disbursement of funds raised; or a copy of Internal Revenue Service Form 990.”
West Virginia	Secretary of State	According to West Virginia Code, Chapter 29, Article 19, nonprofit organizations are required to submit annual reports to the Attorney General, however, the law does not explicitly authorize the Attorney General to request additional information.
Wisconsin	Secretary of State	Under Wisconsin Statutes , nonprofit organizations are required to submit annual reports to the Secretary of State; however, groups that are “group required to file financial information with the federal elections commission “ are exempt from these requirements, according to Section 440.42(5)(a)(2).
Wyoming	Secretary of State	Nonprofit organizations are not required to register with the State of Wyoming.

APPENDIX B:

MODEL STATE REGULATIONS TO REQUIRE DISCLOSURE OF ELECTIONEERING ACTIVITIES BY NONPROFIT ORGANIZATIONS

The following model regulations can be implemented by state officials with responsibility for oversight of nonprofit organizations to require disclosure of electioneering activities by these organizations. This model is based upon regulations enacted in New York State by Attorney General Eric Schneiderman and is specifically tailored to states that currently require nonprofit organizations to register with a state charity bureau or other entity. Under these rules, nonprofit groups, including 501(c)(4) social welfare organizations that are registered with the state, are required to report the percentage of their expenditures that go to federal, state and local electioneering. Groups that spend at least \$10,000 to influence state and local elections in the state are also required to file itemized schedules of expenses and contributions.

MODEL STATE REGULATIONS

Annual Disclosure of Electioneering Activities by Non-501(c)(3) Registrants

(a) Definitions.

For purposes of this section:

(1) “Annual Financial Report” means reports filed with the *State Charities Bureau* pursuant to *State statutes*.

(2) “Covered organization” means any organization that is: (i) registered or required to be registered with the *Attorney General/Secretary of State/Department of Consumer Protection* pursuant to *State statutes*; and (ii) not prohibited by Internal Revenue Code section 501(c) from participating in, or intervening in, any political campaign on behalf of, or in opposition to, any candidate for public office.

(3) “Election” means any general, special, or primary election for federal, state or local office, or at which any proposition, referendum or other question is submitted to the voters in any state or any locality in the United States.

(4) “*State Election*” means only those general, special, or primary elections conducted by a state or local government entity for state or local office, or any election at which any state or local constitutional amendment, proposition, referendum or other question is submitted to the voters.

(5) “Election related expenditure” means (i) any expenditure made, liability incurred, or contribution provided for express election advocacy or election targeted issue advocacy; or (ii) any other transfer of funds, assets, services or any other thing of value to any individual, group, association, corporation whether organized for profit or not-for-profit, labor union, political committee, political action committee, or any other entity for the purpose of supporting or engaging in express election advocacy or election targeted issue advocacy by the recipient or a third party.

(6) “Express election advocacy” means any communication made at any time that:

(i) contains words such as “vote,” “oppose,” “support,” “elect,” “defeat,” or “reject,” which call for the nomination, election or defeat of one or more clearly identified candidates, the election or defeat of one or more political parties, or the passage or defeat of one or more constitutional amendments, propositions, referenda or other questions submitted to voters at any election; or

(ii) refers to or depicts one or more clearly identified candidates, political parties, constitutional amendments, propositions, referenda or other questions submitted to the voters in a manner that is susceptible of no reasonable interpretation other than as a call for the nomination, election or defeat of such candidates in an election, the election or defeat of such political parties, or the passage or defeat of such constitutional amendments, propositions, referenda or other questions submitted to the voters in any election.

(7) “Election targeted issue advocacy”

(i) means any communication other than express election advocacy made within forty-five days before any primary election or ninety days before any general election that: (A) refers to one or more clearly identified candidates in that election; (B) depicts the name, image, likeness or voice of one or more clearly identified candidates in that election; or (C) refers to

any clearly identified political party, constitutional amendment, proposition, referendum or other question submitted to the voters in that election;

(ii) does not mean a communication that is: (A) directed, sent or distributed by the covered organization to individuals who affirmatively consent to be members of the covered organization, contribute funds to the covered organization, or, pursuant to the covered organization's articles or bylaws, have the right to vote directly or indirectly for the election of directors or officers, or on changes to bylaws, disposition of all or substantially all of the covered organization's assets or the merger or dissolution of the covered organization; or (B) for the purpose of promoting or staging any candidate debate, town hall or similar forum to which at least two candidates seeking the same office, or two proponents of differing positions on a referendum or question submitted to voters, are invited as participants, and which does not promote or advance one candidate or position over another.

(8) "Communication" means:

(i) paid advertisements broadcast over radio, television, cable, or satellite; (ii) paid placement of content on the Internet or other electronic communication networks; (iii) paid advertisements published in a periodical or on a billboard; (iv) paid telephone communications to one thousand or more households; (v) mailings sent or distributed through the United States Postal Service or similar private mail carriers to five thousand or more recipients; or (vi) printed materials exceeding five thousand copies.

(9) "Covered donation" means any contribution, gift, loan, advance, or deposit of money or any thing of value made to a covered organization unless such donation is deposited into an account the funds of which are not used for making *State* election related expenditures.

(b) Disclosure of Election Related Expenditures.

(1) The annual financial report filed by any covered organization shall include the amount and the percentage of total expenses during the reporting period that are election related expenditures.

(2) The annual financial report filed by any covered organization that has made *State* election related expenditures in an aggregate amount or fair market value exceeding ten thousand dollars during the reporting period shall include an itemized schedule disclosing information

related to each *State* election related expenditure exceeding fifty dollars in value, unless the information is exempt from disclosure pursuant to paragraph d of this section. Such information shall include for each *State* election related expenditure: (i) the amount or fair market value of any funds, services or assets provided, and any liabilities incurred; (ii) the date that such funds, services or assets were provided, and that any liabilities were incurred; (iii) the name and address of the recipients of the expenditure; and (iv) a clear description of the expenditure and its purpose, including but not limited to support for or opposition to a candidate, political party, referendum or other question put before the voters in an election.

(c) Disclosures of Donations Related to *State* Elections.

(1) The annual financial report filed by a covered organization that has made *State* election related expenditures in an aggregate amount or fair market value exceeding ten thousand dollars during the reporting period shall include an itemized schedule disclosing information related to each covered donation it has received during the reporting period, unless the information is exempt from disclosure pursuant to paragraph d of this section. Such information shall include: (i) the name and address of each donor who made covered donations in an aggregate amount of one thousand dollars or more during the reporting period; (ii) the employer of each such individual donor, if known to the covered organization; and (iii) the date and amount of each such covered donation.

(2) If a covered organization keeps one or more segregated bank accounts containing funds used solely for *State* election related expenditures, and makes all of its *State* election related expenditures from such accounts, then the annual financial report need only include information specified in the preceding subparagraph concerning donations deposited into such accounts.

(d) Exceptions for Disclosures to Multiple Agencies. The annual financial report filed by a covered organization is not required to include the information specified by subparagraph two of paragraph b of this section, or paragraph c of this section, if: (i) any law or rule requires that such information be disclosed to any other government agency that makes such information available to the public, and (ii) the covered organization is in compliance with the requirements of such law or rule at the time it files the annual financial report.

(e) Schedule to be Provided by the *Attorney General/Secretary of State/Department of Consumer Protection*. Upon adoption of this regulation, the *Attorney General/Secretary of State/Department of*

Consumer Protection shall make available a schedule (“Electioneering Disclosure Schedule”) to the Annual Filing for Charitable Organizations and if necessary amend existing forms to allow covered organizations to make the disclosures required by this section.

(f) Guidance to be Provided by the *Attorney General/Secretary of State/Department of Consumer Protection*. Upon adoption of this regulation, the Attorney General shall make available to the public guidance concerning compliance with this rule.

(g) Public Disclosure. The *Attorney General/Secretary of State/Department of Consumer Protection* shall make information contained in the completed Electioneering Disclosure Schedule available to the public on the website of the *Attorney General/Secretary of State/Department of Consumer Protection*, except for:

(1) information related to any covered donation received prior to the effective date of this rule; and

(2) information the *Attorney General/Secretary of State/Department of Consumer Protection* deems exempt from disclosure pursuant to paragraph (h) of this section.

(h) Exemption from Public Disclosure.

(1) Notwithstanding paragraph (g) of this section, the *Attorney General/Secretary of State/Department of Consumer Protection* may, upon application by a donor or covered organization to be made in a form and manner prescribed by the *Attorney General/Secretary of State/Department of Consumer Protection*, grant an exemption and refrain from disclosing any information to the public related to any covered donation if the applicant shows that the covered organization’s primary activities involve areas of public concern that create a reasonable probability that disclosure will cause undue harm, threats, harassment or reprisals to any person or organization.

(2) An application for such exemption shall be submitted no later than forty-five days prior to the due date for the applicable annual filing. The *Attorney General/Secretary of State/Department of Consumer Protection* will inform the applicant and may inform other persons or organizations to which the exemption would apply, in writing, whether the application for exemption has been granted or denied. Any denial issued by the *Attorney General/Secretary of*

State/Department of Consumer Protection shall include a statement of findings and conclusions, and the reasons or basis for the denial.

(3) The submission of an application does not relieve the covered organization of its obligation to timely file annual financial reports, including an Electioneering Disclosure Schedule disclosing all donors for which the covered organization has not sought exemption.

(4) To the extent permitted by federal and state law, the *Attorney General/Secretary of State/Department of Consumer Protection* will exempt from public disclosure all materials submitted in support of an application for an exemption; provided that the *Attorney General/Secretary of State/Department of Consumer Protection* may disclose such materials to a court in response to any judicial subpoena or court order. The *Attorney General/Secretary of State/Department of Consumer Protection* may publicly disclose that a covered organization has submitted one or more applications for an exemption, or that one or more of a covered organization's requests for an exemption has been granted or denied.

(i) Filing Deadlines and Extensions. Covered organizations shall annually file the Electioneering Disclosure Schedule by the fifteenth day of the fifth month after the organization's accounting period ends. No covered organization may obtain any extension to file an Electioneering Disclosure Schedule, including any extension otherwise available under *State statutes*.

(j) Severability. If any provision in this section or the application of such provision to any persons or circumstances shall be held invalid, the validity of the remainder of the provisions and/or the applicability of such provisions to other persons or circumstances shall not be affected thereby



ABOUT THE COALITION FOR ACCOUNTABILITY IN POLITICAL SPENDING:

Founded in 2010, the Coalition for Accountability in Political Spending (CAPS) the nation's first and only bi-partisan coalition of public officials, institutional investors and business leaders dedicated to transparency and accountability in corporate political spending. CAPS members represent 90 million constituents and nearly one trillion dollars in assets. Our members work with corporations to strengthen their political spending policies through a combination of direct engagement, pension fund involvement, contracting reform and legislation at the state and local level. To learn more or get involved, visit our website at: www.politicalspending.org

